



**ARIZONA STATE SENATE**  
*Fifty-Second Legislature, First Regular Session*

**FACT SHEET FOR S.B. 1535**

health; welfare; budget reconciliation 2016-2017

Purpose

Makes statutory and session law changes relating to health and welfare to reconcile the FY 2017 budget.

Background

The Arizona Constitution prohibits substantive law from being included in the general appropriations, capital outlay appropriations and supplemental appropriations bills. However, it is often necessary to make statutory and session law changes to effectuate the budget. Thus, separate bills called budget reconciliation bills (BRBs) are introduced to enact these provisions. Because BRBs contain substantive law changes, the Arizona Constitution provides that they become effective on the general effective date, unless an emergency clause is enacted.

Provisions

**Arizona Health Care Cost Containment System (AHCCCS)**

***Substance Abuse Services***

1. Requires AHCCCS, instead of the Department of Health Services (DHS), to establish services for addictive behavior, including drug and alcohol abuse, and transfers all powers and duties associated with administering substance abuse services to AHCCCS.
2. Designates AHCCCS, instead of DHS, as the single state agency to develop and administer the state plans for alcohol and drug abuse and for alcoholism as provided in federal law.
3. Authorizes AHCCCS, instead of DHS, to administer the Substance Abuse Services Fund.

***Required Reports***

4. Continues to require AHCCCS to report by December 1, 2016, to the Directors of the Joint Legislative Budget Committee (JLBC) and the Governor's Office of Strategic Planning and Budgeting (OSPB) on the use of emergency departments for nonemergency purposes by AHCCCS enrollees.
5. Continues to require the Directors of AHCCCS and DHS, by January 1, 2017, to submit a joint report on hospital charge master transparency as outlined to the Governor, Legislature and Secretary of State, and requires the report to provide the following information:
  - a) a summary of the current charge master reporting process;

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- b) a summary of hospital billed charges compared to costs;
  - c) examples of how charge master or hospital prices are reported and used in other states; and
  - d) recommendations to improve the state's use of hospital charge master information, including reporting oversight changes.
6. Requires AHCCCS to report by January 2, 2017, to the Director of JLBC on the availability of inpatient psychiatric treatment for children and adolescents who receive services from the regional behavioral health authorities (RBHAs). The report shall include all of the following information on treatment for individuals who are 21 years of age or younger:
- a) the total number of inpatient psychiatric treatment beds available and the occupancy rate for those beds;
  - b) expenditures on inpatient psychiatric treatment;
  - c) the total number of individuals in this state who are sent out of state for inpatient psychiatric care; and
  - d) the prevalence of psychiatric boarding or the holding of psychiatric patients in emergency rooms for at least 24 hours before transferring the patient to a psychiatric facility.
7. Requires AHCCCS to submit a report by December 1, 2016, for review by JLBC on Medicaid payments for health care services for the Native American population in this state. The report shall include:
- a) an estimate of AHCCCS's annual total fund expenditures on acute care, long-term care and behavioral health services for Native Americans, including an estimate of total state expenditures on such services. AHCCCS is required to provide separate estimates of total Medicaid fee-for-service expenditures and total Medicaid capitation expenditures for services furnished to Native Americans;
  - b) an assessment of the state fiscal implications associated with federal policy guidance issued by the Centers for Medicare and Medicaid Services (CMS) in the state health official letter #16-002 dated February 26, 2016. The assessment is required to include an estimate of the state fiscal impact of the following policies addressed in the letter:
    - i. the 100 percent federal matching assistance percentage for services furnished by non-Indian health service providers to Native Americans through a written care coordination agreement; and
    - ii. the 100 percent federal matching assistance percentage for services furnished by an Indian health service facility or tribal facility that did not previously qualify for a 100 percent federal matching assistance percentage, including home and community-based services, transportation services and other nonfacility-based services;
  - c) a report on AHCCCS's strategies to encourage written care coordination agreements, as prescribed in the state health official letter #16-002 dated February 26, 2016, between Indian health services providers and non-Indian health service providers; and
  - d) an analysis of the impact of the federal policy guidance issued by CMS in the state health official letter #16-002 dated February 26, 2016, on access to care, continuity of care and population health for Native Americans.

*Rates and Services*

8. Continues, for contract year beginning October 1, 2016, and ending September 30, 2017, the risk contingency rate setting for all managed care organizations and the funding for all managed care organizations administrative funding levels that was imposed for the contract year beginning October 1, 2010, and ending September 30, 2011.

*Counties*

9. Continues to exclude county contributions for Proposition 204 administrative costs from county expenditure limitations.
10. Continues to require AHCCCS for FY 2017 to transfer to the counties by December 31, 2017, any portion necessary to comply with the Patient Protection and Affordable Care Act regarding the counties' proportional share of the state's contribution.
11. Outlines the following FY 2017 county contributions for the Arizona Long Term Care System (ALTCS), totaling \$249,980,000:

|            |               |
|------------|---------------|
| Apache     | \$625,200     |
| Cochise    | \$4,995,000   |
| Coconino   | \$1,877,300   |
| Gila       | \$2,112,600   |
| Graham     | \$1,303,500   |
| Greenlee   | \$33,500      |
| La Paz     | \$595,600     |
| Maricopa   | \$155,173,500 |
| Mohave     | \$7,948,800   |
| Navajo     | \$2,588,200   |
| Pima       | \$39,243,800  |
| Pinal      | \$14,899,800  |
| Santa Cruz | \$1,930,900   |
| Yavapai    | \$8,391,300   |
| Yuma       | \$8,261,000   |

12. Requires the State Treasurer (Treasurer) to collect from the counties the difference between the aforementioned amount and the counties' share of the state's actual contribution if the overall cost for ALTCS exceeds the amount specified in the General Appropriation Act for FY 2017.
13. Requires the counties' share of the state's contribution be in compliance with any federal maintenance of effort requirements.
14. Requires the Director of AHCCCS to notify the Treasurer of the counties' share of the state's contribution and report the amount to the Director of JLBC.

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15. Requires the Treasurer to:

- a) withhold from any other monies payable to a county from whatever state funding source is available, except the Arizona Highway User Revenue Fund, an amount necessary to fulfill that county's requirement; and
- b) deposit the amounts withheld and amounts paid by counties in the ALTCS Fund.

16. Outlines the following FY 2017 County Acute Care contributions, totaling \$47,041,500:

|            |              |
|------------|--------------|
| Apache     | \$268,800    |
| Cochise    | \$2,214,800  |
| Coconino   | \$742,900    |
| Gila       | \$1,413,200  |
| Graham     | \$536,200    |
| Greenlee   | \$190,700    |
| La Paz     | \$212,100    |
| Maricopa   | \$19,011,200 |
| Mohave     | \$1,237,700  |
| Navajo     | \$310,800    |
| Pima       | \$14,951,800 |
| Pinal      | \$2,715,600  |
| Santa Cruz | \$482,800    |
| Yavapai    | \$1,427,800  |
| Yuma       | \$1,325,100  |

17. Requires the Treasurer, if a county fails to make Acute Care contributions, to:

- a) subtract the amount owed by the county from any payments required to be made by the Treasurer to the county plus interest on that amount, retroactive to the first ay the funding was due; and
- b) if the aforementioned amount withheld is insufficient to meet that county's funding requirement, withhold from any other monies payable to that county from whatever state funding source is available, except the Arizona Highway User Revenue Fund, an amount necessary to fulfill that county's requirement.

18. Requires payment equal to one-twelfth of the total amount for Acute Care contributions to be made to the Treasurer by the fifth day of each month, and requires the Treasurer, on request from the Director of AHCCCS, to require that up to three months' payment be made in advance, if necessary.

19. Requires the Treasurer to deposit the amounts paid or withheld into the AHCCCS Fund and the ALTCS Fund.

20. Allows the Director of AHCCCS, if payments made exceed the amount required to meet the costs incurred by AHCCCS for the hospitalization and medical care of eligible persons, to instruct the Treasurer to either:

- a) reduce remaining payments to be paid by a specified amount; or
- b) provide to the counties specified amounts from the AHCCCS Fund and the ALTCS Fund.

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21. States that it is the intent of the Legislature that the Maricopa County Acute Care contribution be reduced in each subsequent year according to the changes in the GDP price deflator.
22. Requires the Treasurer to withhold one-eleventh of the following amounts from state transaction privilege tax revenues otherwise distributable, after any amounts withheld for the county ALTCS contribution or the county administration contribution, for deposit into the AHCCCS Fund for the provision of hospitalization and medical care:

|            |             |
|------------|-------------|
| Apache     | \$87,300    |
| Cochise    | \$162,700   |
| Coconino   | \$160,500   |
| Gila       | \$65,900    |
| Graham     | \$46,800    |
| Greenlee   | \$12,000    |
| La Paz     | \$24,900    |
| Mohave     | \$187,400   |
| Navajo     | \$122,800   |
| Pima       | \$1,115,900 |
| Pinal      | \$218,300   |
| Santa Cruz | \$51,600    |
| Yavapai    | \$206,200   |
| Yuma       | \$183,900   |

23. Requires the Treasurer, if the monies withheld by the Treasurer are insufficient to meet a county's funding requirement, to withhold from any other monies payable to a county from whatever state funding source is available, except monies from the Highway User Revenue Fund, an amount necessary to fulfill that county's requirement.
24. Requires the Treasurer, on request from the Director of AHCCCS, to require that up to three months' payments be made in advance.
25. Allocates in FY 2017 the sum of \$2,646,200 withheld for the county Acute Care Contribution for the provision of hospitalization and medical care services administered by AHCCCS.
26. Excludes county contributions made from the county expenditure limitations.

***Disproportionate Share Hospital (DSH) Payments***

27. Requires the Maricopa County Special Health Care District (MIHS) and the State Hospital to each provide a Certified Public Expense (CPE) form for the amount of qualifying DSH expenditures to AHCCCS by May 1, 2017, for MIHS and March 31, 2017, for the State Hospital.
28. Establishes the FY 2017 DSH payments as follows:

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- a) \$113,818,500 for a qualifying non-state operated public hospital, of which \$4,202,300 is distributed to MIHS, and the remaining federal portion is distributed to the state General Fund (GF);
  - b) \$28,474,900 for the State Hospital, of which the federal portion is distributed into the GF; and
  - c) \$884,800 for private qualifying DSH hospitals, which are those hospitals that meet the mandatory definition of *disproportionate share qualifying hospitals* as defined by the Social Security Act or those hospitals that are located in Yuma County containing at least 300 beds.
29. Continues to require AHCCCS to assist MIHS and the State Hospital in determining the amount of qualifying expenditures and maintains reporting requirements and distribution procedures of received federal matching funds in FY 2017.
30. Specifies that if the certification is provided for an amount greater than \$113,818,500, AHCCCS is required to distribute \$4,202,300 to MIHS and \$74,605,600 of the federal funds participation to the GF. Allows AHCCCS to make additional DSH payments to MIHS.
31. Stipulates after DSH payment distributions are made, the allocation of DSH payments designated by a political subdivision, tribal governments and universities must be made available first to qualifying private hospitals located outside the Phoenix metropolitan statistical area and the Tucson metropolitan statistical area before being made available to qualifying hospitals within the Phoenix Metropolitan Statistical Area and the Tucson Metropolitan Statistical Area.

### ***Delivery System Reform Incentive Payment Fund***

32. Establishes the Delivery System Reform Incentive Payment (DSRIP) Fund, and requires the DSRIP Fund be used to pay all costs incurred pursuant to the section 1115 waiver authority associated with DSRIP payments and designated state health programs.
33. Requires AHCCS to administer the DSRIP Fund, and states it is continuously appropriated.
34. Requires the State Treasurer, on notice from AHCCCS, to invest and divest monies in the DSRIP Fund. Monies earned from investment shall be credited to the fund.
35. Allows separate accounts to be established within the DSRIP Fund for each designated state health program.
36. States the DSRIP Fund consists of:
- a) all monies deposited in the DSRIP Fund pursuant to the section 1115 waiver authority associated with DSRIP payments and designated state health programs;
  - b) gifts, donations and grants from any source;
  - c) federal monies available to this state; and
  - d) interest on monies deposited in the DSRIP Fund.

- 37. Exempts monies in the DSRIP Fund from provisions relating to lapsing of appropriations.
- 38. Requires AHCCCS, before the initial deposit of any monies in the DSRIP Fund, to submit an expenditure plan for review by JLBC.

***340B Drug Pricing Program***

- 39. Requires, beginning the later of January 1, 2017, or on approval by CMS, 340B covered entities to submit point-of-sale prescription and physician-administered drug claims for members for drugs that are identified in the 340B pricing file, whether or not the drugs are purchased under the 340B Pricing Program. The claims shall include a professional fee and the less of either:
  - a) the actual acquisition cost; or
  - b) the 340B ceiling price.
- 40. Requires, beginning the later of January 1, 2017, or on approval by CMS, AHCCCS or a contractor to reimburse claims for drugs that are identified in the 340B pricing file and that are dispensed by 340B covered entities or administered by 340B covered entity providers, whether or not the drugs are purchased under the 340B Drug Pricing Program, at the amount submitted plus a professional fee as determined by AHCCCS unless a contract between the 340B covered entity and AHCCCS or a contractor specifies a different professional fee.
- 41. Prohibits, beginning the later of January 1, 2017, or on approval by CMS, AHCCCS and its contractors from reimbursing any contracted pharmacy for drugs dispensed as part of the 340B Drug Pricing Program, and requires AHCCCS and its contractors to reimburse contracted pharmacies for drugs that are not purchased, dispensed or administered as part of or subject to the 340B Drug Pricing Program. A contracted pharmacy shall be reimbursed at the price and professional fee set forth in the contract between the contracted pharmacy and AHCCCS or its contractors.
- 42. States this section does not require AHCCCS or its contractors to reimburse a pharmacy that does not have a contract with AHCCCS or its contractors.
- 43. Exempts AHCCCS from rulemaking requirements for one year for the purpose of implementing this act.
- 44. Defines, for the purposes of this section:
  - a) *340B ceiling price* as the maximum price that drug manufacturers may charge covered entities participating in the 340B Drug Pricing Program as reported by the drug manufacturer to the U.S. Department of Health and Human Services. The 340B ceiling price per unit is defined as the average manufacturer price minus the federal unit rebate amount;
  - b) *340B covered entity* as a covered entity as defined by federal law that participates in the 340B Drug Pricing Program;
  - c) *340B Drug Pricing Program* as the discount drug purchasing program described in 42 U.S. Code section 256b;

- d) *actual acquisition cost* as the purchase price of a drug paid by a pharmacy net of all discounts, rebates, chargebacks and other adjustments to the price of the drug, not including professional fees;
- e) *Administration* as AHCCCS and includes AHCCCS's contracted pharmacy benefits manager;
- f) *contracted pharmacy* as a separate pharmacy with which a 340B covered entity contracts to provide comprehensive pharmacy services using medications that are subject to 340B drug pricing;
- g) *contractor* as a person or entity that has a prepaid capitated contract with AHCCCS to provide health care to members either directly or through subcontracts with providers and includes a contractor's pharmacy benefits manager; and
- h) *professional fee* as the amount paid for the professional services provided by the pharmacist for dispensing a prescription. *Professional fee* does not include any payment for the drug being dispensed.

### *Miscellaneous*

- 45. Continues to allow AHCCCS to participate in any special disability workload 1115 Demonstration Waiver offered by CMS, and stipulates the following:
  - a) any credits provided by the 1115 Demonstration Waiver process are to be used in the fiscal year when those credits are made available to fund the state share of any medical assistance expenditures that qualify for federal financial participation under the Medicaid program; and
  - b) AHCCCS is required to report the receipt of any credits to JLBC by December 31, 2016, and June 30, 2017.
- 46. States it is the intent of the Legislature for FY 2017 that AHCCCS implement a program within the available appropriation.
- 47. Stipulates any monies received for critical access hospital payments from political subdivisions, tribal governments and any state university under the jurisdiction of the Arizona Board of Regents, and any federal monies used to match those payments, that are received in FY 2017 by AHCCCS are appropriated to AHCCCS in FY 2017. AHCCCS is required to notify JLBC and OSPB of the amount of monies that will be expended prior to expenditure of these monies.

## **Department of Health Services (DHS)**

### *Behavioral Health Services Funds*

- 48. Allows DHS to use monies in the Behavioral Health Services Fund (Fund) only to pay for Title XIX behavioral health services claims for services provided on or before June 30, 2016, until September 1, 2020, when the Fund is repealed. All unexpended and unencumbered monies remaining in the Fund on July 1 of FYs 2018, 2019 and 2020 are transferred to the GF, and the transfer amount may be adjusted for reported but unpaid claims and estimated incurred but unreported claims, subject to the approval of AHCCCS and JLBC.

49. Transfers the *County* Behavioral Health Services Fund from DHS to AHCCCS and requires AHCCCS to administer the Fund.
50. Allows money in the Medically Needy Account to be used to provide behavioral health care services, in addition to health care services, to eligible persons.

***Counties to Reimburse for State Hospital Services***

51. Requires the county, if the state pays the costs of a commitment of a sexually violent individual, to reimburse DHS for 31 percent of the total costs for FY 2017, and requires DHS to deposit the reimbursements in the Arizona State Hospital Fund, and includes the following provisions:
- a) requires the Superintendent of the State Hospital (Superintendent), if the county does not make the payments within 30 days after a request is made by DHS, to notify the Treasurer of the amount owed, and requires the Treasurer to withhold the amount, including interest, from any transaction privilege tax distributions to the county. Requires the Treasurer to deposit these withholdings into the Arizona State Hospital Fund;
  - b) allows a county to meet the funding requirements using any source of county revenue designated by the county, including funds of any countywide special taxing districts in which the board of supervisors serves as the board of directors;
  - c) excludes county contributions regarding the commitment of sexually violent persons from the county expenditure limitation; and
  - d) requires counties to pay the costs associated with the commitment of the sexually violent individual through the entire commitment process, including pre-adjudication proceedings.
52. Requires the city or county, if the state pays the cost of a defendant's inpatient, in custody competency restoration treatment, to reimburse DHS for 100 percent of the costs, and requires DHS to deposit the reimbursements into the Arizona State Hospital Fund, and includes the following provisions:
- a) requires the Superintendent, if the city or county does not make the reimbursements within 30 days after a request is made by DHS, to notify the Treasurer of the amount owed, and requires the Treasurer to withhold the amount, including interest, from any transaction privilege tax distributions to the city or county. Requires the Treasurer to deposit the withholdings into the Arizona State Hospital Fund;
  - b) allows a county to meet the funding requirements using any source of county revenue designated by the county, including funds of any countywide special taxing districts in which the board of supervisors serves as the board of directors; and
  - c) excludes those county contributions regarding the reimbursement for competency restoration treatments from the county expenditure limitation.

***Miscellaneous***

53. Requires ALTCS program contractors to provide dental services in an annual amount of not more than \$1,000 per member.

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- 54. Allows monies in the Health Services Lottery Monies Fund to be used for purposes specified in the FY 2017 General Appropriations Act.
- 55. Continues to allow DHS to use monies in the Health Research Account as specified in the General Appropriations Act for Alzheimer's disease research.
- 56. Continues to require AHCCCS to report to JLBC and OSPB on the efforts to increase third-party liability payments for behavioral health services by December 31, 2016.
- 57. Makes technical and conforming changes.
- 58. Becomes effective on the general effective date, with a delayed effective date as noted.

Prepared by Senate Research

April 26, 2016

EM/lis